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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 ROBERT SMITH, JR.,) CASE NO. C07-0166-RSL-MAT
09)
Petitioner,)
10)
v.) ORDER DENYING PETITIONER'S
11) EMERGENCY MOTION FOR
BELINDA STEWART,) EXTENSION OF TIME
12)
Respondent.)
13 _____)

14 Petitioner has filed a petition for a writ of habeas corpus challenging a decision by the
15 Indeterminate Sentence Review Board denying petitioner parole in 2005. Respondent has
16 filed an answer to the petition and petitioner has filed a response to the answer. (Dkt. Nos. 27 &
17 31). In addition, the Court directed respondent to file a reply to petitioner's response and
18 respondent did so on January 8, 2009. Plaintiff filed a surreply to respondent's reply on
19 January 27, 2009. (Dkt. No. 39). In addition, petitioner filed an emergency motion for an
20 extension of time on January 21, 2009, to which respondent filed a response. (Dkt. Nos. 38 &
21 40). Having reviewed petitioner's emergency motion for an extension of time and the balance
22 of the record, the Court does hereby ORDER as follows:

ORDER DENYING PETITIONER'S EMERGENCY
MOTION FOR EXTENSION OF TIME

(1) Pursuant to the Court's previous Order of January 5, 2009, petitioner's habeas petition is noted for consideration on January 16, 2009. (Dkt. No. 36). Petitioner's surreply was received by the Court on January 27, 2009, but was signed by petitioner on January 11, 2009. (Dkt. No. 39 at 7). Under *Houston v. Lack*, 487 U.S. 266, 270 (1988), petitioner's surreply is deemed filed on January 11, 2009; consequently, it is timely and shall be considered by the Court. Accordingly, petitioner's emergency motion for an extension of time (Dkt. No. 38) is DENIED as moot.

(2) The Clerk is directed to send a copy of this Order to petitioner, to counsel for respondent, and to the Honorable Robert S. Lasnik.

DATED this 6th day of February, 2009.

s/ Mary Alice Theiler
United States Magistrate Judge